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Facebook, the Conservatives, and the risk to fair and open elections in the UK

In the UK 2015 election the Liberal Democrats lost 49 of their 57 seats. In the south-west of England, an area that had been core to their support, they lost all 14 of their seats. Every one of these fourteen was won by the Conservatives. The LibDems were stunned by the scale of their defeat. Until the eve of the election, the Party leadership was hopeful of holding their ground, particularly in places like Yeovil and Thornbury and Yate where they held majorities of over 7,000. 'My hunch', then LibDem leader Nick Clegg told the Today Programme on 5th May, 'is that we're going to do much better than people think'.¹ 'Our vote may be a bit down on where we were last time', Vince Cable told the *Financial Times*, though high enough, he thought, to negotiate a place in a coalition.²

The Liberal Democrats knew that their current coalition partners, the Conservatives, were aiming to win some of their seats but, excepting the deluge of direct mail, there were few visible signs of them on the ground. As Nick Clegg, then leader of the Lib Dems told journalist and writer Tim Ross:

'We didn't see any canvassers out on the streets. We would send out teams of canvassers, in the old 'shoe-leather' way. And you just wouldn't see [the Tories], which is why in some significant parts it did completely blindside us. We knew they were firing off huge numbers of letters at folk but by definition we couldn't see how the communication with voters was happening'.³

In fact, according to Ross, the Conservatives had pursued a ruthless defenestration approach in the south-west. Named the 'black-widow strategy' – because black widow spiders sometimes eat their partners after mating with them – the Conservatives had decided by early 2014 to target their Coalition partners, especially in south-west England. Central to their approach was a highly strategic use of digital media. Much of this was to be targeted directly to constituents via social media and email, making it virtually invisible to the Liberal Democrats, and indeed to most of the public.

The Conservative's approach, and its success, shows not only how central social media – most notably Facebook – had become to their campaign communication by the UK 2015 election, but how this communication may be compromising the principles of fair and open elections in the UK. Its use and apparent success also suggests that existing electoral legislation and regulation are fast becoming outdated and un-policeable.

Facebook was too new to play an influential part in a UK general election before 2010. In May 2005, the previous UK general election, the company was just over a year old. It was in the US, where Facebook was established, that the social network was first used extensively in elections, particularly from the 2008 presidential election.⁴ In 2008 Barack Obama recruited Chris Hughes, one of the original founders of Facebook, to his campaign strategy team. Obama then used the platform to help organize his campaign, and posted over a hundred times to

the site.⁵ In total, about a hundred campaign staff worked on different aspects of Obama's social media outreach in 2008 – using a combination of Facebook, Twitter, Flickr, and MySpace.⁶ Yet Facebook was only one of a number of equivalent platforms at the time, with 21 million registered members in 2007, as compared to 1.5 billion worldwide by 2015.⁷ Still, by the close of the 2008 campaign Obama had managed to build up more than 2.3 million Facebook supporters.⁸

Despite the Obama campaign's use of Facebook and other social media in 2008, most UK political parties still viewed these communications platforms as relatively minor aspects of their campaign activities in the 2010 general election. Facebook was used mainly to push out communication through Party fan pages, and to direct people to the Parties' websites, even though by then it had 25 million active UK users:

'Social media were important [in 2010], say the Tories, but mainly in creating 'buzz,' due to the reflected impact in the mainstream media. With votes to be won, a key strategy was to use marketing, along with organic and paid search to drive people to their website where they could lay out their wares'.⁹

Craig Elder, who had been deputy head of digital during the Conservative's 2010 campaign, said the Party saw social media as more of a gimmick than a serious tool. 'In the 2010 campaign, we wanted to show people we were smart and clever... We wanted to show them shiny things'.¹⁰ Facebook was more likely to be used as an organizing tool by Conservative Party activists, for example, than as a core part of the campaign.¹¹ According to spending records submitted to the Electoral Commission, the Conservative Party did not spend anything on Facebook leading up to the 2010 election.

By 2012, digital media had become central to the US presidential campaign strategies of both the main parties, particularly through the use of data analytics and behavioral modeling to personalize messages to specific voters in key locations.¹² The Democratic party employed 100 full time 'data scientists', as compared to 12 in 2008. 'We are going to measure every single thing in this campaign' Jim Messina said after he was appointed by Obama to run the campaign.¹³ Facebook and social media played an integral part in delivering personalized messages to particular voters, and in capturing those voters' responses.

In 2015 the Conservatives were catching up, learning directly from those involved in the US presidential campaigns of 2008 and 2012, and working closely with Facebook to understand how best to use the platform. Jim Messina, Obama's campaign manager, was brought in as Conservative campaign strategy advisor. Messina and other members of the Conservative campaign team then worked with elections specialists at Facebook to integrate the social network to their campaign strategy.

The stark difference between the Conservative campaigns of 2010 and 2015 is best illustrated by the contrast in the Party's spending on Facebook. Having not spent any money on Facebook for the 2010 election, during the year leading to the 2015 election (the regulated period) the Conservative Party spent £1,209,593 on the social network's services. The Party spent just under half of this between June and December 2014, and the rest from January till June 2015. It paid Facebook £439,981 from March 2015 through the election (the official campaign began when Parliament was dissolved on 30th March). By comparison, the Labour Party spent £16,455 with Facebook on the UK 2015 election, the Liberal Democrats £22,245, UKIP £91,322, and the Green Party £21,295 (Electoral Commission).

One of the great advantages of Facebook, from a political communications perspective, is that messages can be targeted not just at particular types of people, but at particular geographic areas. Facebook gives advertisers the option of focusing advertising to within a 10-mile radius. The largest UK constituency is about 7,500 square miles (Ross, Skye and Lochaber), the smallest between four and five square miles (Jeremy Corbyn's constituency - Islington North). Parties can therefore choose to target individuals based not just on their demographics, their connections, their attitudes and their online behavior, but by their Parliamentary constituency, even by areas within particular constituencies. Since more than half the UK population were active Facebook users by 2015, this provided a particularly powerful channel to the electorate.

During 2014, some of Conservative Facebook spending was targeted at constituency by-elections. We know this because the constituencies are named on the Facebook invoices. Newark, where a by-election was held on 5th June 2014, was cited in four line items in the June invoice, totaling £1,720.18. The Party then spent £924.83 on the Clacton by-election, held in October 2014, and £3,599.52 on Rochester and Strood, where a by-election was held on 20 November 2014.

This focus on particular constituencies fit closely with the general election campaign strategy of the Conservative Party. In the autumn of 2012 the Conservatives had identified 80-100 key constituencies they wanted to target and those they wanted to defend. This became the '40/40' strategy – 40 to attack and 40 to defend.¹⁴ If successful they hoped this would raise their number of seats from 306 to 326 (they eventually won 331). Over the following two years the Party carefully surveyed these seats to understand their demographics, political sensibilities, political allegiances and propensity to vote. This information was then fed into the Conservative election canvassing database - 'VoteSource' - and later used to work out which voters to concentrate on and what issues and messages resonated best with them.

By the end of 2014 the Conservatives had distilled these 80-plus constituencies down to 23 seats that, if won, could swing the election. *The Telegraph* reported that all but two of these seats were in the LibDems heartland, the south-west of England (the list of 23 seats published by *The Telegraph* does not include Thornbury and Yate or Yeovil, even though Conservative candidates in those

seats said they were one of the 23).¹⁵ The candidates themselves were conscious that their seat was one of the 23. Yeovil is 'one of just 23 seats we need to win' Conservative candidate Marcus Fysh posted on Facebook on 5th May. 'We, the Conservatives are only 23 seats nationally from a majority and Torbay is one of those seats', Kevin Foster posted on 4th May. 'Thornbury and Yate is one of just 23 more seats that David Cameron needs to win to form a majority government' Luke Hall posted on the day of the election.

Once the party had identified and surveyed its target seats, Facebook then provided two critical campaign functions. The social network provided a means by which to channel tailored, pre-tested messages to particular people in each constituency. It also provided a way in which to capture people's reaction to those messages. As the Conservatives digital director for the campaign, Craig Elder, explained:

'We were able to work with Facebook using constituency targeting to focus just on the constituencies that were going to decide the election, and then based on what we already know about the demographics of the people who are going to decide this election, we could do demographic targeting, and interest targeting, to focus in on people and present different content to a young mum in Derby North to maybe a slightly older gentleman living in Rochester'.¹⁶

Elder's colleague and fellow 2015 campaign digital director, Tom Edmunds, reiterated this when speaking about the campaign in late May 2015:

'Targeted activity on Facebook and other platforms was focused on reaching undecided voters in marginal constituencies with the right messages'.¹⁷

These messages often gave users the opportunity to find out more information, such as 'How much might you save in tax cuts under the Conservatives?' If they recipient wanted to find out, they needed to provide their email address and postcode. Armed with the email address and postcode, the Party could then contact the person directly with a personalised email, or direct mail, or even a knock at the door. This, according to Jim Messina, was what the Party then did, with increasing frequency as the campaign wore on:

'We [the Conservatives] were having as many as eight to ten conversations with undecided voters in the final week'.¹⁸

Facebook was 'the crucial weapon' according to Messina. It enabled the forensic targeting of key undecided voters in swing seats. 'I think the proof is in the pudding', Messina said, 'that we now hold every single west UK Lib Dem seat'.¹⁹ After the Conservatives' victory Craig Elder said 'Facebook is a phenomenal campaigning platform and we really, really exploited that'.²⁰

Yet, though we know Facebook was critical, though we know it was targeted at specific undecided voters in marginal constituencies, and though we know it cost

a lot of money, we do not know how much it cost to target each constituency or what was communicated to which individual voters.

Up to November 2014, constituencies are named in the invoices from Facebook – Newark in May 2014, Clacton in September 2014 and Rochester and Strood in October and November 2014. Yet, from February 2015 the invoices are effectively anonymised. Each invoice lists a numbered campaign – Campaign 01, Campaign 02 and so on – with a cost attached. It is therefore impossible to connect these to individual constituencies.

The reason this is important, in a British context, is because of the UK's strict limits on constituency spending, in order to ensure fairness. Fairness is one of the distinguishing characteristics of British election campaigns. There have been limits on the amount candidates can spend in an election campaign since the passing of the Corrupt and Illegal Practices Prevention Act in 1883. Though these laws have been adapted over the last century, and the amounts candidates are able to spend have changed, the principle remains the same. It is a principle that distinguishes the British system from other democracies, such as that of the US, and that is credited with limiting the influence of money in UK politics. It also enables smaller parties and independent candidates to challenge larger parties and incumbents. The importance of these limits for maintaining a level financial playing field has been reemphasised recently by research showing a positive link between spending at a constituency level and votes – in other words, higher spending has been shown to lead to more votes.²¹

In 2015 each constituency candidate was legally allowed to spend around £15,000 during the short campaign (the exact amount varied depending on the size and spread of the constituency). This is separate to the amount that could be spent nationally, which was much larger. All but two of the Conservative candidates in the 14 constituencies in the south-west spent close to their spending limits.¹ In Thornbury and Yate, Luke Hall declared £13,128, 90 per cent of the limit. In Yeovil Marcus Fysh declared 92 per cent of the limit of £16,120. In Torbay, Kevin Foster also declared 92 per cent of the limit of £13,281.

Constituency spending is considered separately from national spending. National spending includes money spent on each party's national campaign organisation and staff (including Lynton Crosby and the Conservative campaign team based at No.4 Matthew Parker Street), national billboard and press advertisements, general direct mail (i.e. not specific to a constituency candidate), rallies, and market research. There have been national spending limits for the year prior to an election since the Political Parties, Elections and Referendums Act was passed in 2000.

The Conservatives spent the most nationally in 2015, a total of £15.6 million. £4.7 million of this went on opinion polling, and £4.3 million went on direct mail.

¹ 12 of the 14 candidates spent over 85% of their spending limit for the short campaign. The candidates for Bath and for Mid Dorset and North Poole spent 82% and 69% of their limit respectively

Labour spent a total of £12.1 million, the Liberal Democrats £3.5 million, and UKIP £2.9 million.

The amount spent by the Conservatives on Facebook, £1.2 million between June 2014 and June 2015, was counted as national expenditure, not constituency expenditure. Kevin Foster, for example, the Conservative candidate for Torbay, did not include any Facebook expenses in his constituency spending returns (based spending return details provided by Torbay Council). This was presumably because Facebook was treated by the Party like a national billboard and press advertising campaign, and because the communications distributed via Facebook for the 2015 election were about the national party rather than the local candidate.

However, a national billboard and press advertising campaign is necessarily aimed at a broad swathe of voters, even if it is placed within certain constituencies, rather than individually targeted. Moreover, parties cannot, with national advertising campaigns, track who sees an ad, who reacts to it, or who responds to it directly. Nor can they then engage in a dialogue via the same channel. A national advertising campaign is also, by its nature, an open campaign, the claims of which can be widely assessed and challenged.

By contrast, a social media campaign via Facebook is targeted at specific individuals within particular constituencies. The advertiser, in this case the Conservative party, can see who is exposed to its communication, how they react, and capture any personal information provided in response (email address, postcode, salary for example). They can then contact the person directly, via social media or email, to seek to persuade them. Equally, while it is possible to test a claim that national billboard or press advertising is about the national Party not the candidate, it is not possible to test a similar claim about Facebook advertising since this is opaque to all but the recipient.

When communications are targeted at individuals within constituencies, leading subsequently to an ongoing dialogue with some of those individuals with the aim of persuading them to vote for the Conservative candidate in that constituency, it seems peculiar to define this as national rather than as constituency spending. Moreover, since the communications are opaque to anyone but the Party, the recipient and Facebook, then it is not possible to confirm whether or not they refer to the national party or to an individual candidate.

Were the costs of Facebook to be allocated to the constituencies at which communication was targeted, it would significantly alter the spending returns for those constituencies. If the amount spent during the period of the long campaign (from 19 December 2014 to 29 March 2015) was allocated to the Conservatives 80 key constituencies, for example, it would add over £3,000 to each of their spending returns. If, during the period of the short campaign (from 30th March to 7th May) it was allocated to the 23 most important marginals then it would add over £9,000 to each of their returns. This would raise each of the constituencies above the regulated spending limit. These figures are, of course,

theoretical since we do not know at which constituencies and constituents the communication was targeted.

The Electoral Commission's guidelines do not help to clarify the use of social media or its cost allocation. In the Commission's July 2015 post-mortem on the administration of the general election, it acknowledged that there were, and still are, no specific rules regarding the use of social media by parties. Yet any regulated spending, it said, 'on social media advertising would be subject to existing spending limits and reportable after the election'. This does not address the question of microtargeting or explain whether such spending should be allocated locally or nationally. The report notes the widespread use of social media by the parties, but rather than proposing changes to existing legislation or guidelines to take account of these, simply suggests keeping an eye on electioneering methods as they progress further: 'As use of social media evolves,' the report says, 'it will be important to monitor changing campaigning techniques'.²²

This wait-and-see approach of the Commission risks ignoring an identifiable and growing structural problem with election expenditure. By allocating social media spending such as Facebook to the national returns a political party can campaign at a constituency level without adding to the constituency spending total. It can, in effect, bypass constituency spending limits. Since existing legislation makes no reference to social media or digital campaigning it would be difficult to say such activity is in breach of the existing law. However, if the purpose of the law is to maintain fairness in constituency contests, and prevent one party from outspending others at a constituency level, then such activity cannot but undermine this.

The extensive use of social media to target individual constituents also compromises the openness of election communications. Electoral legislation obliges candidates and parties to be transparent about the provenance of any printed material they send to citizens (Representation of the People Act 1983: 110). This way the public can assess who is saying what. The same legislation makes it illegal to make false claims in political communication (ibid. 1983: 106). Both these are undermined by targeted communication that goes directly to the recipient and cannot be seen, or challenged, by others. It is very hard for other parties, the public, or the electoral regulator, to check the provenance of, or claims made, in such opaque communication.

Justin Fisher, writing about party finance shortly after the election, suggested that there 'has always been a blurred line between' constituency and national spending.²³ Yet, given the growing individualization of campaign communications, and the ever greater emphasis by Parties on key seats, this line seems increasingly arbitrary and likely to become still more so given the opportunities for data collection and personalization. This is certainly the direction of US elections.²⁴

There are many reasons why the Liberal Democrats lost more than 8 out of 10 of their seats in the 2015 election. The party lost its outside outsider status when it

joined the Coalition in 2010. In government it compromised on issues it had previously campaigned on, such as tuition fees. Within seven months of joining the Conservatives in office the LibDems poll rating was down to 8%, and hardly rose thereafter.²⁵ As the LibDem support declined, that of UKIP, the Green Party and the SNP all increased.

Yet the Liberal Democrats were also far less well-funded than Labour or the Conservatives, able to spend less than a quarter of what the Conservatives were able to spend at a national level. It was thanks to this additional funding, from a national level, that the Conservatives were able to spend £1.2m on Facebook. Much of this Facebook spending went on targeted campaigns towards specific constituencies and constituents. Many of these constituencies were previously held by the LibDems. In May 2015 they were won by the Conservatives.

Based on the experience of the UK 2015 election it is becoming increasingly clear that the failure of existing electoral legislation and guidelines to take digital media – and particularly social media – into account, jeopardises the fairness and openness of UK elections.

Notes

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